

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #15	CCRB Case #: 201809522	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/27/2018 4:20 PM	Location of Incident: [REDACTED]	Precinct: 28	18 Mo. SOL 4/27/2020	EO SOL 12/12/2020	
Date/Time CV Reported Tue, 11/06/2018 11:25 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 11/13/2018 11:07 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Grieve	20150	958653	028 PCT
2. POM Ken Carty	24853	962294	028 PCT
3. POF Veronica Nickey	15241	956130	028 PCT
4. POM Jason Lederer	13269	959749	028 PCT
5. POM Brandon Robles	10514	962058	028 PCT
6. SGT Opeyemi Sapara	03980	935701	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Matthew Grieve	Force: Police Officer Matthew Grieve used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Ken Carty	Force: Police Officer Ken Carty used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
C.POF Veronica Nickey	Force: Police Officer Veronica Nickey used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Jason Lederer	Force: Police Officer Jason Lederer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Brandon Robles	Force: Police Officer Brandon Robles used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
F.SGT Opeyemi Sapara	Abuse: Sergeant Opeyemi Sapara strip-searched § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On November 6, 2018, § 87(2)(b) filed this complaint with IAB via telephone on behalf of § 87(2)(b). § 87(2)(b) had no relation to § 87(2)(b). On November 13, 2018, the complaint was received at the CCRB via IAB log #2018-43972.

At approximately 4:20 p.m. on October 27, 2018, Police Officer Matthew Grieve, Police Officer Ken Cary and Police Officer Veronica Nickey of the 28th Precinct attempted to stop § 87(2)(b) near the intersection of § 87(2)(b) § 87(2)(b) in Manhattan. § 87(2)(b) fled on a bicycle. The officers pursued him to the intersection of § 87(2)(b). They were joined in the pursuit by PO Jason Lederer and PO Brandon Robles of the 28th Precinct. The officers allegedly forced § 87(2)(b) to the ground and repeatedly punched and kicked him (**Allegations A-E: Force – Physical force, § 87(2)(g)**). § 87(2)(b) was then taken into custody and transported to the 28th Precinct stationhouse. There, Sergeant Opeyemi Sapara directed officers to strip-search § 87(2)(b) (**Allegation F: Abuse of Authority – Strip search, § 87(2)(g)**). Several bags of marijuana were recovered from his person. § 87(2)(b) was issued summonses for possession of marijuana and riding a bicycle on the sidewalk (Board Review #01-03).

No video footage was found for this incident.

This complaint was initially assigned to Inv. Andrew Ridge. It was reassigned to the undersigned, Inv. Owen Godshall, on May 10, 2019. It was forwarded to the ADR Unit on July 5, 2019. It was then returned for investigation on September 30, 2019 due to MOS rejection.

Findings and Recommendations

Allegation (A) Force: Police Officer Matthew Grieve used physical force against § 87(2)(b)

Allegation (B) Force: Police Officer Ken Cartv used physical force against § 87(2)(b)

Allegation (C) Force: Police Officer Veronica Nickey used physical force against § 87(2)(b)

Allegation (D) Force: Police Officer Jason Lederer used physical force against § 87(2)(b)

Allegation (E) Force: Police Officer Brandon Robles used physical force against § 87(2)(b)

§ 87(2)(b) provided telephone statements on November 30, 2018 and December 4, 2018 (Board Review #04-05). She and her § 87(2)(b)-old daughter, § 87(2)(b) were interviewed at the CCRB on January 4, 2019. The investigation was unable to contact § 87(2)(b) (Board Review #06). Police Officer Grieve was interviewed at the CCRB on May 2, 2019. Police Officer Robles was interviewed at the CCRB on October 15, 2019. Police Officer Carty and Police Officer Nickey were interviewed at the CCRB on November 19, 2019. On November 21, 2019, PAA James of the 28th Precinct roll call stated that Police Officer Lederer is on long-term military leave and will be unavailable for an interview until the end of 2020. Police Officer Lederer was therefore not interviewed.

It is undisputed that officers attempted to stop § 87(2)(b) ultimately stopping and handcuffing him at the intersection of § 87(2)(b) § 87(2)(b) and § 87(2)(b) observed § 87(2)(b)'s arrest. Neither § 87(2)(b) nor the officers involved were alleged to have been injured during the arrest. § 87(2)(b) was later issued summonses for criminal possession of a controlled substance and riding his bicycle on the sidewalk. The officers did not prepare a TRI report to document the incident.

§ 87(2)(b) stated that she was walking by the incident location when they saw a group of officers standing in a circle around § 87(2)(b). She did not see how the officers stopped him. § 87(2)(b) was on his knees at the time. The officers repeatedly punched and kicked § 87(2)(b). The officers each took turns striking § 87(2)(b) rather than all of them striking him at the same time. § 87(2)(b)

did not recall how many times the officers struck § 87(2)(b) or where their blows landed. § 87(2)(b) was not moving or offering physical resistance. § 87(2)(b) made no mention of officers striking § 87(2)(b) after he was handcuffed. She made no mention of § 87(2)(b) riding or having a bicycle.

§ 87(2)(b) stated that she first observed § 87(2)(b) and one of the officers, identified by the CCRB as PO Carty, standing next to each other at the intersection. Both had their hands on the other's shoulders and were pulling each other back-and-forth. § 87(2)(b) then turned to inform § 87(2)(b) of what was happening. When she returned her attention to § 87(2)(b) she saw that he was lying on the ground. She did not know how § 87(2)(b) came to be on the ground. The other officers had joined PO Carty. All five officers kicked § 87(2)(b) repeatedly as he lay on the ground. § 87(2)(b) did not recall if § 87(2)(b) made any movements while on the ground. The officers placed § 87(2)(b) into handcuffs while he was on the ground. They then continued kicking § 87(2)(b). § 87(2)(b) did not specify what part of § 87(2)(b)'s body the officers kicked. She made no mention of § 87(2)(b) riding or having a bicycle.

Police Officer Grieve, Police Officer Carty and Police Officer Nickey stated that they approached § 87(2)(b) a few blocks away from the incident location. All three officers stated that § 87(2)(b) was stopped for riding his bicycle on the sidewalk. Police Officer Grieve and Police Officer Carty further stated that they approached § 87(2)(b) because Police Officer Grieve had observed him engage in a hand-to-hand drug transaction. PO Carty denied witnessing the alleged transaction himself. § 87(2)(b) fled from the officers on his bicycle, riding through the courtyard of § 87(2)(b) NYCHA development before arriving at the intersection of § 87(2)(b). Police Officer Grieve drove after § 87(2)(b) in the officers' marked SUV while Police Officer Carty and Police Officer Nickey chased on foot. Police Officer Carty, Police Officer Nickey and Police Officer Robles stated that the officers called for backup during the pursuit, leading Police Officer Robles and Police Officer Lederer to respond to the location to assist them. Police Officer Grieve stated that Police Officer Robles and Police Officer Lederer had been observing § 87(2)(b) with him before the pursuit.

Police Officer Carty stated that he caught up to § 87(2)(b) at the intersection and tried to stop him by grabbing § 87(2)(b) by the shoulders. § 87(2)(b) slipped out of Police Officer Carty's grasp, but this caused him to lose his balance and fall from his bicycle, landing on one of his sides. Police Officer Carty then bent down and placed § 87(2)(b) in handcuffs. § 87(2)(b) tried to prevent Police Officer Carty from restraining him by holding his arms stiffly at his side. Police Officer Carty, however, was able to pull the arms behind § 87(2)(b)'s back. Police Officer Carty held § 87(2)(b) down by placing his weight on top of § 87(2)(b)'s body, but he did not recall which part of his body made contact with which part of § 87(2)(b)'s body. He denied using any other physical force against § 87(2)(b) including punching or kicking him. He denied that any other officers made physical contact with § 87(2)(b).

Police Officer Grieve stated that he lost sight of § 87(2)(b) during the pursuit and did not catch up to him until after § 87(2)(b) was already on the ground. He did not see how § 87(2)(b) came to be on the ground, but one of the other officers told him later that § 87(2)(b) had swerved his bicycle to avoid the police and lost his balance. Police Officer Grieve held § 87(2)(b) down while he was handcuffed. PO Grieve did not recall what parts of § 87(2)(b)'s body they touched. He denied that he or the other officers used any physical force against § 87(2)(b) including punching or kicking him. Police Officer Grieve noted that § 87(2)(b) offered some physical resistance, but was not able to describe it in any detail.

Police Officer Nickey also stated that she lost sight of § 87(2)(b) during the pursuit and did not catch up to him until after he was on the ground. She did not see how § 87(2)(b) ended up on the ground either. She did not participate in handcuffing § 87(2)(b). She denied making physical contact with § 87(2)(b). She did not see what, if any, force the other officers used against § 87(2)(b). She denied seeing any officers strike § 87(2)(b). She made no mention of § 87(2)(b) offering physical resistance.

Police Officer Robles stated that he joined the pursuit before § 87(2)(b) was stopped. When § 87(2)(b) reached the intersection, Police Officer Carty tackled him off the bicycle. The bicycle was still in motion at the time. Police Officer Robles did not recall how § 87(2)(b) was arranged on the ground when he landed. Once § 87(2)(b) was down, multiple officers placed him in handcuffs. Police Officer Robles did not recall if he assisted them or made physical contact with § 87(2)(b). He denied that he punched or kicked § 87(2)(b) and denied seeing any other officers doing so. He did not recall if § 87(2)(b) offered any physical resistance.

NYPD Patrol Guide procedure 221-01 states that officers may use physical force when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. Factors to be considered when determining if the use of force was reasonable include the nature and severity of the crime, whether the subject is actively resisting arrest and whether the subject is fleeing from custody (Board Review #07).

§ 87(2)(g)

Allegation (F) Abuse of Authority: Sergeant Opeyemi Sapara strip-searched § 87(2)(b)

It is undisputed that Sergeant Sapara and Police Officer Grieve strip-searched § 87(2)(b) at the 28th Precinct stationhouse. Sergeant Sapara authorized the strip search. The strip search was documented in the command log (Board Review #08) and Police Officer Grieve's memo book (Board Review #09).

The investigation was unable to contact § 87(2)(b) or obtain a sworn statement from him (Board Review #04). Neither § 87(2)(b) nor § 87(2)(b) was present at the stationhouse to witness the strip search.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) or § 87(2)(b) has been a party (Board Review #10).
- Police Officer Carty has been a member of the service for three years and has been a subject of one previous CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

- § 87(2)(g)
- Police Officer Grieve has been a member of the service for four years and has been a subject in two previous CCRB complaints and two allegations, neither of which was substantiated. § 87(2)(g)
- Police Officer Nickey has been a member of the service for five years and has been a subject of one previous CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- Police Officer Robles has been a member of the service for three years and this is the first CCRB complaint to which he has been a subject.
- Police Officer Lederer has been a member of the service for four years and this is the first CCRB complaint to which he has been a subject.
- Sergeant Opeyemi has been a member of the service for fifteen years and has been a subject in one previous CCRB complaint and two allegations, neither of which was substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- A Notice of Claim request was submitted to the NYC Office of the Comptroller on December 3, 2019. The results will be included in the case file upon receipt.
- § 87(2)(b)
- According to OCA, § 87(2)(b) has no history of convictions in New York City (Board Review #12).

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date